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Message Text

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ACTION AF-10

INFO OCT-01 ISO-00 CPR-02 AID-05 CA-01 PPT-01 L-03
/023 W
----------119684 262317Z /61
R 260910Z AUG 78
FM AMEMBASSY NOUAKCHOTT
TO SECSTATE WASHDC 296

C O N F I D E N T I A L NOUAKCHOTT 2499

DEPT PASS ALSO TO AID

E.O. 11652: GDS
TAGS: EAID, PDIP, MR
SUBJ: PRIVILEGES AND IMMUNITIES FOR AID PERSONNEL

REF: A) NOUAKCHOTT 1852, B) NOUAKCHOTT 1693, C) NOUAKCHOTT 1669

1. GOVERNMENT OF MAURITANIA (GIRM) RESPONDED TO OUR SEVERAL DEMARCHES BUT SPECIFICALLY TO OUR NOTE VERBALE OF JULY 8 WITH A NOTE VERBALE FROM FONMIN DATED AUGUST 7, 1978. AN INFORMAL TRANSLATION FOLLOWS (COMPLIMENTARY PHRASES OMITTED):
QUOTE THE MINISTRY IS PLEASED TO INFORM THE EMBASSY THAT THE TECHNICAL COOPERATION STAFF ASSIGNED TO WORK IN MAURITANIA IN ACCORDANCE WITH THE AGREEMENTS SIGNED BETWEEN USAID (SIC) AND THE GIRM ARE NOT DIPLOMATS, AND THEREFORE, CANNOT ENJOY DIPLOMATIC PRIVILEGES AND IMMUNITIES. NEVERTHELESS, THE MINISTRY OF FOREIGN AFFAIRS INFORMS THE AMERICAN EMBASSY THAT THE AID STAFF CAN ENJOY THE FOLLOWING PRIVILEGES: (A) PERSONAL EFFECTS- THE PERSONNEL AND MEMBERS OF THEIR FAMILIES CAN IMPORT, EXEMPT FROM TAXES AND CUSTOMS DUTY, OBJECTS AND PERSONAL EFFECTS ON THE CONDITION THAT THEY ARE USED AND IMPORTED ON ONE SINGLE OCCASION AND CONSECUTIVELY WITH THE CHANGE OF RESIDENCE. MEMBERS OF FAMILY IS INTENDED TO MEAN SPOUSE AND CHILDREN.
B. THE TEMPORARY ADMISSION OF ONE SINGLE CAR PER FAMILY
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IS GRANTED TO EACH AID EMPLOYEE. THIS CAR SHOULD BE REGISTERED IN THE SERIES TT. F(FYI: TT SERIES VEHICLES ARE FREE FROM ROAD TAX LIABILITY AND ELIGIBLE FOR TAX FREE GASO- LINE END FYI).
THE COMPETENT SERVICES WISH TO HAVE A LIST OF AID PERSONNEL WHICH CAN BE CONTINUOUSLY UPDATED. END QUOTE.
FRENCH TEXT AND ENGLISH TRANSLATION POUCHED TO STATE AND

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AID LEGAL ADVISORS OFFICES.

2. IN OUR VIEW, THE NOTE PROVIDES
A SUFFICIENT BASIS FOR EXECUTION OF ALL CONTRACTS UNDER AID-
FUNDED PROJECTS IN MAURITANIA. HOWEVER, THERE ARE SEVERAL
DEFICIENCIES:
(A) AMERICAN PERSONAL AFFECTED BY THE NOTE ARE REFERRED
TO AS "PERSONNELS DE COOPERATION TECHNIQUE" (TECHNICAL CO-
OPERATION PERSONNEL OR STAFF) IN ONE IN ONE INSTANCE AND "PERSONNELS
DE L'USAID" (USAID PERSONNEL) IN THREE OTHER INSTANCES. IN
NO INSTANCE DOES IT SPECIFICALLY MENTION "INDIVIDUALS UNDER
CONTRACT WITH OR EMPLOYEES OF PUBLIC OR PRIVATE ORGANIZATIONS
UNDER CONTRACT WITH USG." THERE A LITERAL INTERPRETATION
OF THE LANGUAGE WOULD MAKE THE PROVISIONS OF THE NOTE
APPLICABLE ONLY TO AID DIRECT HIRE. PERSONNEL. WE HASTEN
TO ADD, HOWEVER, THAT IT IS CURRENTLY BEING INTERPRETED
BY GIRM AS REFERRING EXCLUSIVELY TO AID CONTRACTOR PERSONNEL.
B) THE NOTE SPECIFICALLY DENIES ANY IMMUNITY FROM LOCAL
JURISDICTION.
C) IT IS SILENT ON TAXES OR OTHER CHARGES NOT RELATED TO
IMPORTATION OF GOODS AND IN THIS RESPECT IS LESS LIBERAL THAN
THE PEACE CORP AGREEMENT BETWEEN GIRM AND USG, WHICH ENTERED
INTO FORCE OCTOBER 17, 1966, AND
D) IT IS SILENT ON IMPORTATION OF CONSUMABLES AND IN
THIS RESPECT IS LESS PRECISE THAN THE LETTER FROM THE MINISTER
OF RURAL DEVELOPMENT (NOUAKCHOTT 1852).
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3. WE ASSUME THAT THE "ONE SINGLE OCCASION" CLAUSE WILL BE
INTERPRETED AS "TIME OF FIRST INSTALLATION" IN THE CUSTOMARY
FASHION SO AS TO PERMIT SEVERAL SHIPMENTS WITHIN A PERIOD
OF 60 OR 90 DAYS. IN THE ABSENCE OF SPECIFIC PROHIBITION
AGAINST DUTY FREE IMPORTATION OF CONSUMABLES, WE SUGGEST THAT
CONTRACTOR PERSONNEL BE INSTRUCTED TO INCLUDE AN ADEQUATE
SUPPLY OF FOOD STAPLES AND OTHER CONSUMABLES IN THEIR
PERSONAL EFFECTS SHIPMENTS ON WHICH, YOU WILL NOTE, THE GIRM
HAS PLACED NO RPT NO WEIGHT LIMITATION. THE STANDARD 2000
POUNDS ADDITIONAL WEIGHT ALLOWANCE FOR CONSUMABLES GRANTED TO
DIRECT HIRE PERSONNEL WOULD SEEM TO BE APPROPRIATE. WE DEFER
TO THE DEPARTMENT'S JUDGEMENT ON THE MATTER OF ALCOHOLIC BER-
ERAGES AND TOBACCO PRODUCTS, BUT WE WOULD NOT OBJECT TO REAS-
ONABLE AMOUNTS BEING IMPORTED AT TIME OF FIRST INSTALLATION
AS UNSPECIFIED PART OF PERSONAL EFFECTS, PROVIDED THAT
EMBASSY IS SUPPLIED WITH ITEMIZED LIST OF SUCH PRODUCTS IN
ADVANCE OF ARRIVAL OF SHIPMENT. HHE SHIPMENTS SHOULD BE
ADDRESSED TO AMERICAN AMBASSADOR (EMPLOYEE'S INITIALS),
AMERICAN EMBASSY DAKAR FOR NOUAKCHOTT.

4. THE GIRM'S LOOSELY WORDED NOTE UNDERSCORES THE NEED FOR

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AN AID BILATERAL AGREEMENT SIMILAR TO THE GHANA MODEL THAT WAS
DISCUSSED WITH THE AMBASSADOR IN AID/GC AND AID/AA/AFR
IN JUNE. TECHNICALLY SPEAKING, AID DIRECT HIRE PERSONNEL
CURRENTLY ENJOY NO SPECIAL STATUS WHATSOEVER, ALBEIT THE GIRM
TREATS THEM, DE FACTO, AS "MEMBERS OF THE DIPLOMATIC STAFF"
IF THEY HAVE DIPLOMATIC PASSPORTS AND AS "MEMBERS OF THE
ADMINISTRATIVE AND TECHNICAL STAFF" IF THEY HAVE OFFICIAL
PASSPORTS FOR PURPOSES OF CUSTOMS FREE IMPORT PRIVILEGES.
TO OUR KNOWLEDGE THE QUESTION OF IMMUNITY FROM LOCAL
JURISDICTION HAS NOT ARISEN.

5. UNTIL SUCH TIME AS AN AID BILATERAL AGREEMENT IS SIGNED,
WE REITERATE OUR RECOMMENDATION THAT ALL AID DIRECT HIRE
PERSONNEL ASSIGNED TO MAURITANIA IN OFFICER-LEVEL POSITIONS
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BE ISSUED DIPLOMATIC PASSPORTS SO AS TO AFFORD THEM THE PRO-
TECTION OF THE VIENNA CONVENTION. ALSO, THE GREATER THE
PROPORTION OF HOLDERS OF DIPLOMATIC PASSPORTS AMONG U.S.
MISSION PERSONNEL, THE BETTER WE CAN EXPLAIN THE EVER
INCREASINGLY LARGE WACASC COMMISSARY SHIPMENTS TO THE GIRM
CUSTOMS OFFICIALS WHOSE QUESTIONS BECOME MORE PRECISE AND
THUS MORE DIFFICULT TO ANSWER EACH TIME. WE NEED NOT
ELABORATE ON THE ADVERSE EFFECT THAT AN EVEN PARTIAL LOSS
OF COMMISSARY PRIVILEGES WOULD HAVE AT AN ISOLATED POST
SUCH AS THIS.

6. ACTION REQUESTED:
A) THAT AID BEGIN EXECUTION OF CONTRACTS AND EXPEDITE
ARRIVAL OF CONTRACTOR PERSONNEL.
B) THAT WE BE PROVIDED WITH A DRAFT AID BILATERAL AGREE-
MENT AS SOON AS POSSIBLE.
C) THAT PASSPORT POLICY RECOMMENDED IN PARA (5) ABOVE
BE ADOPTED IMMEDIATELY.

7. ADVISE. KRYZA

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Message Attributes

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Draft Date: 26 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
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Errors: N/A
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From: NOUAKCHOTT
Handling Restrictions: n/a
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Legacy Key: link1978/newtext/t19780819/aaaaaqab.tel
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Litigation History:
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